Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (ST) NO. 2854 OF 2023
(For bringing the Legal Heirs of deceased Respondent No.1C)
IN
WRIT PETITION NO. 5165 OF 1995

~~Baburao R. Chothave~~
(Died on 18.01.2016)
Through his LRs,
Laxmibai Shivshankar Chothave and Ors. .. Applicants.

Versus

~~Ramchandra A. Karale~~
Since deceased through his L.R's
Gourishankar Ramchandra Karale and Anr. .. Respondents

WITH
INTERIM APPLICATION (ST) NO. 2792 OF 2023
(For Restoration of CA.No.1019 of 2003)
IN
CIVIL APPLICATION NO. 1019 OF 2003
IN
WRIT PETITION NO. 5165 OF 1995

~~Baburao R. Chothave~~
(Died on 18.01.2016)
Through his LRs,
Laxmibai Shivshankar Chothave and Ors. .. Applicants.

Versus

~~Ramchandra A. Karale~~
Since deceased through his L.R's
Gourishankar Ramchandra Karale and Anr. .. Respondents

WITH
CIVIL APPLICATION NO. 1019 OF 2003
IN
WRIT PETITION NO. 5165 OF 1995
WITH
WRIT PETITION NO. 5165 OF 1995

~~Baburao R. Chothave~~
(Died on 18.01.2016)
Through his LRs,
Laxmibai Shivshankar Chothave and Ors. .. Applicants.

Versus

~~Ramchandra A. Karale~~
Since deceased through his L.R's
Gourishankar Ramchandra Karale and Anr. .. Respondents

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- Mr. Shrishail Sakhare, Advocate for Applicants.
- Ms. Rukmini Khairnar i/by Mr. P.N. Joshi, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.
DATE : FEBRUARY 03, 2023.

P.C.:

INTERIM APPLICATION (ST) NO. 2854 OF 2023

1. Heard Mr. Sakhare, learned Advocate for Applicants.

2. This Interim Application (St.) No.2854 of 2023 has been filed for bringing the legal heirs of deceased Respondent No.1C – Babasaheb Ramchandra Karale on record. Respondent No.1C has expired on 21.12.2019.

3. Perused the Interim Application. The names of the legal heirs are given in paragraph No.2 of the Interim Application.

4. For the reasons mentioned in the Interim Application, the delay of 1 year and 9 months stand condoned.

5. Amendment to be carried out within a period of two weeks from today. Re-verification stands dispensed with. Copy of the amended Petition be served on the Respondents on or before the adjourned date.

6. Interim Application is allowed in terms of prayer clauses 'b', 'c' and 'd'.

7. Interim Application (St.) No.2854 of 2023 is disposed.

INTERIM APPLICATION (ST) NO. 2792 OF 2023

1. Heard Mr. Sakhare, learned Advocate for Applicants.

2. This Interim Application (St.) No.2792 of 2023 has been filed for seeking restoration of Civil Application No.1019 of 2003 which was dismissed by virtue a conditional order passed by this Court on 20.09.2003.

3. Civil Application No.1019 of 2003 was filed by the original Petitioners for bringing the legal heirs of deceased Respondent No.2 on record. Original Respondent No.2 – Bhimashankar Bhogade has expired on 05.01.1996 during the pendency of the present Writ Petition. The present Writ Petition is admitted and listed for final hearing on final hearing board.

4. Mr. Sakhare, learned Advocate for the Applicants would submit that he was newly engaged to represent the Applicants / Petitioners.

5. For the reasons mentioned in the Interim Application, Interim Application stands allowed.

6. Interim Application (St.) No.2792 of 2023 stands allowed in terms of prayer clauses ‘a’ and ‘b’.

7. In view of allowing Interim Application (St.) No.2792 of 2023, Civil Application No.1019 of 2003 stands restored to the record and file of this Court.

CIVIL APPLICATION NO. 1019 OF 2003

1. Civil Application No.1019 of 2003 is taken up for hearing and disposal.

2. Mr. Sakhare would submit that in the meanwhile Smt. Sugalabai Bhimashankar Bhogade who was required to be brought on record as Respondent No.2A has also expired and her only legal heir is her surviving son i.e. Respondent No.2B – Kailas Bhimashankar Bhogade.

3. In view of the same, he would submit that, if Civil Application No.1019 of 2003 is allowed, Applicants / Petitioners be permitted to delete the name of Smt. Sugalabai Bhimashankar Bhogade and implead Mr. Kailas Bhimashankar Bhogade as Respondent No.2A.

4. For the reasons mentioned in the Civil Application, Civil Application No.1019 of 2003 stands allowed in terms of prayer clauses ‘b’ and ‘c’.

5. Necessary amendment to be carried out within a period of two weeks from today. Re-verification stands dispensed with. Copy of the amended Petition be served on the other side.

6. In view of the above orders passed in the Interim Applications and Civil Application, issue notice to the newly added Respondents. Humdast permitted. In addition to service of notice through Court, Applicants / Petitioners shall serve a copy of the Petition on the Respondents and inform them about the next date of hearing by any permissible mode of service and file affidavit of service with tangible proof thereof before the returnable date.

7. Ms. Khairnar, learned Advocate for Respondent No.1A and 1B stated that she would take instructions to appear for the newly added Respondents.

8. List the Writ Petition on final hearing board on **23rd February, 2023**.

[MILIND N. JADHAV, J.]

AJAY TRAMBAK UGALMUGALE
Digitally signed by AJAY TRAMBAK UGALMUGALE
Date: 2023.02.06 16:26:09 +0530